HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPA RAO

Dt.08.11.2006

WRIT PETITION No.21651 of 2006

Between:
P. Raju
.. Petitioner

Vs

The Regional Transport Officer, Kadapa.
..Respondent

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HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.21651 of 2006

ORDER: (Per JC, J)

This Writ Petition is filed with a prayer as follows:

"To issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in not passing final orders on the

explanation of the Petitioner to the show Cause Notice dated 30.8.2003 nor refunding the deposited amount of Rs.30,000/- in favour of the petitioner by dropping further action, as illegal and arbitrary and consequently direct the respondent to refund the deposited amount of Rs.30,000/- in favour of the petitioner forthwith by dropping further action."

2) The brief facts of the case were recorded by this Court's order dated 3.11.2006. It is not necessary to repeat. For the reasons recorded, on that date, we directed the Secretary, Transport Department, State of Andhra Pradesh to be present in the Court on 6.11.2006. Accordingly, the Secretary appeared and took time to file counter affidavit. Today, a mention was made by the learned Government Pleader to take up the matter in the afternoon. When the matter is taken up at 2.15 P.M., the Secretary, Transport Department, State of Andhra Pradesh, filed affidavit, firstly, stating that the grievance of the petitioner is justified and realizing the same, orders were issued on 7.11.2006 in R.No.6833/A2/2003 by the Deputy Transport Commissioner and Secretary, Regional Transport Authority, Kadapa. The relevant portion of the said order reads as follows:

> "In the reference 1st, the Motor Vehicle Inspector, Rajampet has made out a case against the Spare Bus TN 3679405 plying on Special Temporary Permit issued by Secretary, R.T.A., Gopichettypalem, Erode District u/s 88(8) of M.V.Act, 1988 for plying without evidence of payment of A.P. tax and without production of Registration Certificate. The Motor Vehicle Inspector has seized the Vehicle U/s 207 of M.V.Act, 1988 and U/s 8 of A.P. M.V. Act.
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> Aggrieved by the seizure of the Vehicle, the Registered owner approached the Hon'ble High Court of Andhra Pradesh, Hyderabad in W.P.No.18032 of 2003 and the Hon'ble High Court of A.P., Hyderabad in its order dated 28.3.2003 have ordered to release of the vehicle on the condition of the petitioner on the depositing an amount of Rs.30,000/-(Rupees thirty thousand only) subject to the result of the enquiry conducted by the authorities according to law. Accordingly the Registered Owner has deposited Rs.30,000/- on 30.8.2003 vide D.D.No.236849 dated 30.8.2003 of SBI, Kadapa which was released vide this office computer Rc.No.C4/112289 dated 30.8.2003 and release orders have been issued.
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> The demand draft has been accounted for adjusted vide this office challan No.38156 dated 30.8.2003 at Sub-Treasury, Kadapa.
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> As per instructions in Memo.No.8525/R2/2003, dated 13.8.2003 of the Transport Commissioner, A.P., Hyderabad a Show Cause Notice was issued vide ref.3rd cited for payment of tax of Rs.50,000/- and penalty of Rs.50,000/- as the vehicle was plied in A.P. without payment of A.P. Tax dated 20.8.2003 as provision of G.O.Ms.No.285, Transport (R&B) Department dated 15.9.1984. The Registered owner has submitted in his explanation among other things, the vehicle is covered by Special Permit U/s 88(8) of M.V.Act, 1988 on the date of check and as per bilateral agreement between these two States the payment of tax to the A.P. is exempted for the permits issued U/s 88(8) of M.V. Act.
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> In view of the explanation of the Registered Owner, the matter has been addressed to the Transport Commissioner, A.P., Hyderabad for clarification vide ref.5th cited whether to collect the tax in view of the Memo No.8525/R2/2003, dated 13.8.2003 or exempt from payment of tax. In the mean while the Registered owner has applied for refund of deposited amount made through his letter dt.8.3.2006. Subsequently, the Registered owner has filed W.P.No.21651/2006 in the Hon'ble Court of A.P., Hyderabad for refund of deposited amount.
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> The clarification was received from the Joint Transport Commissioner (Plg.), O/o. the State Transport Authority, A.P., Hyderabad vide ref.9th cited and it was clarified that they may have to refund the deposit as there are no merits in the case.
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> Sanction is hereby accorded for payment of refundable deposited amount of Rs.30,000/- paid by Sri P. Raju of Rangasamudram, Satyamangalam, Erode District as per orders of the Hon'ble High Court in W.P.No.18032/2003, dated 28.8.2003.
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> The following records are enclosed herewith:

1. Bill for Rs.30,000/- (Rupees thirty thousands only).
2. 'X' Copy of order dated 28.8.2003 of Hon'ble High Court of A.P., Hyderabad in W.P.No.18032 of 2003.
3. Challan in original vide Challan No.38156 dt.30.8.2003 of ST, Kadapa.
4. Advance Stamped receipt in duplicate."

3) Apart from that it is also stated in the affidavit that in the background of what transpired in this court and the order of this Court dated 3.11.2006, the incumbent of the office of the sole respondent Sri T. Madhusudhan Reddy was kept under suspension, pending an enquiry for the proposed disciplinary action by order of the Government in G.O.Rt.No.1136 dated 6.11.2006. A copy of the G.O. is placed before this Court. In the circumstances of the case and in view of the fact that the grievance of the petitioner is alleviated, we do not see any reason to examine the writ petition in further.

4) The Writ Petition is accordingly closed. In the background of the above mentioned point, we deem it appropriate to award costs to the petitioner quantified at Rs.2000/-. It is open to the Government to recover the costs from the Officer/Officers who were responsible for the state of affairs, if they can identify them.

JUSTICE J.CHELAMESWAR

8th November 2006. ***JUSTICE D.APPARAO***

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